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Before the
FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of

Federal-State Joint Board on
Universal Service

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CC. Docket No. 96-45

COMMENTS OF AMERITECH ON
JOINT BOARD RECOMMENDATION

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I. INTRODUCTION AND SUMMARY.

In response to the Common Carrier Bureau's Notice of November 18, 1996 (DA 96-1891), Ameritech submits these comments on the recommended decision of the Federal-State Joint Board regarding universal service.¹

In its Recommended Decision, the Joint Board has taken a good initial step in tackling the problems and issues associated with furthering the nation's interest in promoting universal service and in fulfilling Congress' directives contained in § 254 of the Telecommunications Act of 1934, as amended by the Telecommunications Act of 1996. However, the Joint Board has left several questions unanswered and made several recommendations which, if implemented, could violate both the letter and the spirit of the law and ultimately work counter to the development of a vibrant and competitive telecommunications marketplace that serves the needs of all consumers.

The Joint Board correctly concluded that the Commission should establish "competitive neutrality as an additional principle upon which to base its policies for the

¹ In the Matter of Federal-State Joint Board on Universal Service, CC Docket No. 96-45, Recommended Decision, FCC 96J-3 (released November 8, 1996) ("Recommended Decision").

preservation and advancement of universal service.”² Not only is the principle consistent with the statutory references to “equitable and nondiscriminatory” contributions to universal service support mechanisms,³ it is also required for the ultimate sustainability of a universal service support mechanism. As explained in the attached paper “Ensuring the Viability and Integrity of Universal Service Policy with Competition” by Professor Barbara A. Cherry and Professor Steven S. Wildman,⁴ from an economic perspective, in a competitive environment, competitive neutrality and long-term sustainability are two sides of the same coin. In particular, developing an appropriate mechanism to achieve public policy universal service goals necessitates a determination that there is compatibility between the appropriate public policy goals and the obligations imposed on private parties, that those obligations must be competitively neutral on their face and in their effect, and that the creation of any transitional or long-term sustainability problems which arise from the effect of the rules on preexisting circumstances are accounted for and corrected.

In this context, certain modifications should be made to the Joint Board’s proposal to further the goal of competitive neutrality and to ensure the long-term sustainability of the universal service support mechanism.

With respect to high-cost/low-income support:

² Recommended Decision at ¶ 23.

³ See §§ 254(d) and (f).

⁴ Included as Attachment A. Hereinafter referred to as the “Cherry-Wildman Report”.

- Each carrier receiving that support must assume carrier of last resort ("COLR") and, where appropriate, equal access obligations; alternatively, carriers shouldering those obligations must be specially compensated.
- The inclusion of usage and single-line business services as universal service items would unnecessarily inflate the fund and jeopardize its long-term sustainability.
- The use of proxy cost models for high cost support is inherently flawed; therefore, the Commission should seriously explore alternatives.
- Changes should be made to the Board's benchmark model to preclude recipient carriers from over-recovery and to prevent nationwide funding of state-specific windfall rate decreases.
- The transition for high cost rural carriers should be shortened.
- Disconnection of lifeline service for failure to pay toll charges should be prohibited only if the subscriber elects toll blocking services.

The Joint Board was correct to remove the recovery of long term support ("LTS") from the carrier common line ("CCL") charge. However, flowing only half of the reduction through to the CCL charge while using the other half to fund a subscriber line charge ("SLC") decrease constitutes an unwarranted increase in the subsidy flowing from access services to local exchange services.

With respect to the support of schools and libraries, the Joint Board's recommendation of support for Internet services and internal connections is inappropriate, contrary to the statute, and not competitively neutral. In addition, the Board's recommendation with respect to the "lowest corresponding price" ("LCP") should be clarified to require the submission of prices only in arrangements that have been entered into within the twelve previous months. Otherwise, incumbent carriers might be precluded from ever raising their rates.

With respect to the support of rural health care, the Commission must recognize that the statute requires only that rural health care providers be assessed rates comparable to those paid by their urban counterparts -- not that total charges be equivalent. In addition, the support mechanism must not be used to fund infrastructure build-out in rural areas. That would competitively disadvantage those carriers that have already funded their own infrastructure improvement programs and permit subsidized carriers to use their own funds for competitive purposes in other areas.

Finally, special attention should be paid to ensuring the competitive neutrality of the mechanism for assessing contributions to the universal service fund and for carriers' recoupment of the costs represented by those contributions. As noted in the Cherry-Wildman Report, an assessment on interstate carriers that is based on interstate and intrastate revenues would not be competitively neutral. For that reason, and for statutory jurisdictional reasons as well, serious consideration should be given to the maintenance of separate interstate and state-specific intrastate funds. In addition, there must be no differential restrictions on carriers' ability to recoup the costs represented by contributions to the universal service fund. One of the best ways to ensure this competitive neutrality would be to require that costs of universal service support be recouped only via uniform surcharges on carriers' bills to their customers.

II. HIGH-COST/LOW-INCOME SUPPORT.

In order to ensure that the high-cost/low-income universal service funding plan is competitively neutral in its effect and ultimately sustainable in the long-term, the Commission must determine that only appropriate telecommunications access services

provided to residential customers are supported and that requirements imposed on all recipients of universal service funding be the same.

A. Definition of Universal Service.

The Joint Board properly recommended that single-party, voice grade access to the public switched network, DTMF or its functional digital equivalent (touchtone service), and access to emergency services and operator services should be designated eligible for universal service support.⁵ The Joint Board, however, was wrong to recommend that a portion of local usage be included within the definition of voice grade access. While Ameritech does not necessarily disagree with the Joint Board that the "states are best positioned to determine the local usage component that represents affordable service within their jurisdiction,"⁶ nonetheless a variable usage component -- one that is different in each state -- should not be funded through the federal support mechanism. Rather, states should support local usage through their own universal service mechanisms. To include a variable usage component in a federal fund would encourage each state to "load up" so as to maximize the benefits that its constituents receive from the rest of the country. That could unnecessarily inflate the size of the fund and jeopardize its long-term sustainability. On the other hand, if each state has the burden of supporting its own local usage component, there will not be an incentive to fund more than is absolutely necessary to ensure affordable service.

⁵ To the extent that single party services includes connection to the public switched telephone network ("PTSN"), that, in and of itself, includes access to emergency services and operator services. There should be no other requirement in that regard.

⁶ Recommended Decision at ¶ 49.

Ameritech agrees that universal service should include access to interexchange services.⁷ However, as noted below, the principle of competitive neutrality would require that, in those areas in which the incumbent local exchange carrier ("ILEC") has equal access obligations, any other carrier receiving high-cost/low-income universal service support in that service area should also be obligated to provide equal access. Without such a requirement, competitive entry would effectively be subsidized on unequal terms and the fund would essentially sanction recipients' failure to provide their customers with the same capability to choose an interexchange carrier ("IXC") that regulators have required to be made available to other customers in the area.

Ameritech agrees with the Joint Board that access to the Internet would automatically be included in voice-grade access to the public switched telephone network ("PSTN") and that there is, otherwise, no reason to include Internet service in universal service support since it does not meet the statutory definition of a "telecommunications service."⁸

Ameritech also agrees with the Joint Board that universal service support should be provided to residential customers but limited to a single connection to the subscriber's principle residence.⁹ There are no good public policy reasons for funding a second line to a consumer's home or service to a subscriber's summer residence.¹⁰

⁷ Id. at ¶ 65.

⁸ Id. at ¶ 69.

⁹ Id. at ¶ 89.

¹⁰ A carrier may have limited ability to police this restriction, however, especially if second lines are purchased in different names and if vacation home's are in a different carrier's serving area.

However, Ameritech disagrees with the Joint Board's recommendation that universal service support be available for single-connection businesses.¹¹ Although the Board noted that, under its proposal, support for single-connection businesses would be less because of the manner in which the benchmark is calculated, nevertheless, supporting business services in general constitutes a substantial policy shift and would inevitably and significantly increase the size of the fund. Telephone service should naturally be considered a cost of starting up and operating any business. In addition, small businesses already get a quasi-subsidy for telephone service not available to consumers -- namely, a tax deduction. Moreover, there are other mechanisms for funding small businesses -- including Small Business Administration loans and other programs at the federal and state level. There is nothing in the legislative history that would signal Congress' intent to use § 254 as a vehicle to subsidize business development.

B. Carriers Eligible for Universal Service Support.

If the principle of competitive neutrality has any meaning at all, it must result in a requirement that any recipient of high-cost/low-income universal service support funding be under regulatory obligations comparable to those imposed on other competitors. Otherwise, the universal service fund will essentially be subsidizing the competitor with the lightest regulatory burden. This is true regardless of whether a bidding process or a proxy cost vehicle is used to determine support payments. In a bid process, the carrier with a higher regulatory burden will likely have a higher cost-of-service and, therefore, a higher bid. If a proxy model includes those regulatory costs, it

¹¹ Recommended Decision at ¶ 91.

will overcompensate a recipient that does not have the burden. If it does not include those costs, it will under-compensate the recipient that does have the burden.

In this regard, Ameritech agrees with the Joint Board recommendation that the Commission adopt the statutory criteria contained in § 214(e)(1) as the rules for determining whether a carrier is eligible to receive universal service support.¹² Those criteria are that the carrier: (1) offer all of the service supported by federal universal support mechanisms; (2) offer such service using its own facilities alone or in combination with the resale of another carrier's services; and (3) advertise the availability and charges for such services.

Ameritech, however, strongly disagrees with the Joint Board's recommendation not to require carriers receiving universal service support to assume carrier of last resort ("COLR") obligations.¹³ As noted above, the principal of competitive neutrality requires a recognition of the fact that regulatory requirements impose substantial cost on certain carriers' provision of "eligible services." COLR obligations -- the obligation to extend facilities to serve any customer and the barrier to exit -- impose additional costs: (1) the simple cost of constructing a ubiquitous, "busy-hour-capable" network, which cost need not be incurred by a non-COLR that can use COLR service to handle high cost areas and busy-hour overflow traffic, and (2) the cost of the financial risk associated with the inability to cease providing a service if it is financially beneficial to do so, coupled with the greater potential for stranded investment associated with

¹² Id. at ¶ 155.

¹³ Id. at ¶ 156.

competitive entry. In addition, the equal access obligations on certain ILECs impose additional costs associated with the provision of plain old telephone service ("POTS") eligible for universal service support.

As explained in the attached Cherry-Wildman Report, the long-term sustainability of any universal service support plan is critically dependent on the competitive neutrality of its operation and effect, and competitive neutrality requires a recognition of the cost of regulatory requirements.¹⁴ The problem with the Joint Board's proposal is that it would compensate all carriers alike regardless of the differential application of COLR and equal access obligations.¹⁵

As noted below, because of questions concerning appropriate proxy cost models, Ameritech recommends that the Commission seriously consider an alternative model. However, any model should include an obligation for the recipient of universal service support to assume COLR status and, where imposed on the ILEC, equal access obligations. Alternatively, as suggested in the Cherry-Wildman Report, if COLR or equal access status is not imposed on the recipient of universal service support, at a minimum the carrier bearing the greater obligations should be compensated for the increased risk and financial burden arising from those obligations.

It should be noted that, particularly with respect to high-cost areas, the provision of service is inextricably connected to carrier of last resort obligations. By definition, a COLR must serve some customers at prices set below cost. If all customers could be

¹⁴ The issue of ILECs' potential inability to recover sunk or embedded costs given the change in regulatory paradigm is one of transitional sustainability that should also be addressed. However, it may be appropriate to deal with it in a separate proceeding.

¹⁵ In addition, the Joint Board is erroneous in concluding that eligible competitive carriers would not attempt to "cherry pick" customers by offering differential rates. Recommended Decision at ¶ 156.

served at cost or at a profit, there would be no need to impose carrier of last resort obligations. As competition increases, COLRs' ability to recover this shortfall through the prices for other services is significantly reduced, thereby requiring COLRs to rely on universal service funding to cover the cost of serving those high cost areas. To permit carriers without COLR obligations to have access to the same universal service funding could jeopardize COLRs' ability ultimately to serve high-cost areas -- defeating the very purpose for which universal service funding is established in the first instance.

Thus, the long-term sustainability of the system requires competitive neutrality -- i.e., that all recipients of high-cost/low-income universal service support be burdened with comparable regulatory obligations.¹⁶

C. High-Cost Mechanism.

The Joint Board suggests that universal service support be based on a carrier's cost of providing the network used to provide services eligible for universal support, that that cost be based on a forward-looking cost proxy model, and that the amount of support provided to the carrier be based on the difference between the carrier's cost, as determined by the proxy model, and a nationwide average benchmark revenue-per-line.¹⁷

While Ameritech has no objection, in principle, to the use of cost to determine a carrier's "draw" from the universal service fund, the use of a proxy model for that purpose could prove problematic. Actual costs are preferable because the carrier would

¹⁶ Or that the carrier with the greater obligation be separately compensated for the costs involved with those obligations.

be compensated based on fact. Proxy models, on the other hand, are too subject to the assumptions behind the inputs. The problems with the Hatfield Model have been noted previously in submissions by GTE, US West, and BellSouth. Moreover, although other cost models are being considered by industry groups (i.e., BCM2 and CPM), there is no indication that these models will prove to be any better in that regard.

For that reason, the Commission should give consideration to other models. For example, the viability of a bidding model should be explored. On the surface, a properly crafted bidding model would appear to have some positive aspects. Under a bid model, it would be the serving entity's responsibility to determine its own costs, to bid accordingly, and then to live with the consequences. Moreover, a proper bid process could result in limiting the amount of universal service funding to support a given area to only what is absolutely necessary. Ameritech would be willing to work with the industry in a workshop format to explore the possibility of developing a recommendation for a consensus bidding model.

As noted above, however, any recipient of high-cost/low-income universal service support should be required to accept COLR obligations -- and equal access obligations to the extent required of the ILEC. Alternatively, the COLR should be compensated an extra amount to account for the increased risk and financial burden associated with COLR/equal access status.¹⁸

¹⁷ Recommended Decision at ¶¶ 299, 310. The Board recommended two benchmarks, one for residential service and one for a single-line business service (¶ 312). As noted above, however, the Commission should decline to include business service in a universal service support mechanism.

¹⁸ See Cherry-Wildman Report.

Nonetheless, if a proxy cost-based/ benchmark mechanism is adopted, the benchmark recommended by the Joint Board has substantial merit. Basing the benchmark on all telecommunication revenues-per-line is appropriate since it reflects the revenues that a telecommunications carrier would reasonably be expected to use to offset the cost of providing service.

However, one important change to the support mechanism needs to be made to make sure that a recipient carrier does not over-recoup its cost. Namely, the carrier should be entitled to the difference between its cost and the benchmark or the difference between its cost and its rate for eligible services, whichever is less. If the carrier's rate is above the benchmark, there is no reason to fund the difference between its rate and the benchmark since it is already receiving that amount from its own customers.

In addition, another limit must be placed on a carrier's ability to draw from the universal service fund to preclude states from "gaming" the process. Quite simply, with respect to the second measure of a carrier's draw noted above -- i.e., the difference between a carrier's cost and its rate -- in no event should a rate lower than the carrier's current rate be used for calculating that amount. This would prevent a carrier and its state commission from using the universal service fund to finance a general rate decrease to the carrier's customers. In addition to providing the carrier with too much support from the fund, such a practice would have a secondary effect of contributing to a lower benchmark and, thereby, increasing the draw of all recipient carriers. This would threaten the long-term viability of the support mechanism.

Finally, Ameritech strongly opposes the length of the transition period for rural LECs proposed by the Joint Board.¹⁹ The Joint Board recommends that between 1998 and 2000 rural carriers receive support payments for high cost assistance, DEM weighting and Long Term Support in amounts frozen on a per line basis based on 1997 (for high cost support) and 1996 (for DEM and LTS) amounts. The Board proposes that between 2001 and 2003 support would be shifted to the benchmark model. If there must be a transition, the six years proposed by the Board is much too long. If a valid benchmark model is adopted, there is no reason to wait three years before beginning a three year transition. Instead, the three year transition should begin immediately. It should be remembered that the highest cost companies will draw the largest amounts from the fund on a per line basis even under the benchmark model. Moreover, since these carriers will be receiving payments from the fund even during the transition, they should be required to remove the effects of DEM weighting from their access rates immediately.

D. Low-Income Customers.

The Joint Board has recommended that voluntary toll limitation be added to a modified Lifeline assistance program for eligible low-income consumers.²⁰ The Board further recommends that only carriers that currently possess the capability of providing these features be required to provide them to Lifeline-eligible consumers. The Board further recommends that eligible telecommunications carriers not currently capable of

¹⁹ See Recommended Decision at ¶ 355.

²⁰ Id. at ¶¶ 384-385.

providing these features be required to add the capability of providing at least toll blocking in any switch upgrades.

While Ameritech has no objection to requiring toll blocking where technically feasible, Ameritech would point out that the feasibility of providing a comprehensive "toll limitation service" -- i.e., a service that blocks toll calls after calls amounting a certain predetermined total dollar amount per month have been made -- is very problematic since it would require real time recording and rating of calls that local exchange subscribers make using carriers other than the billing local exchange carrier. For example, Ameritech does not rate calls that its local exchange subscribers make using other carriers, so it would have no way of immediately blocking calls that its subscribers make using, for example, MCI after \$10 worth of calls have already been placed in the billing period.

The Joint Board has also recommended that carriers be prohibited from disconnecting Lifeline service for non-payment of toll charges.²¹ Such a restriction, however, could be a "license to steal." Ameritech suggests that, where toll blocking service is available on a voluntary basis for no charge to Lifeline customers, the carrier be prohibited from disconnecting Lifeline service for failure to pay the toll charges only where the subscriber agrees to take toll blocking service. Without such a modification, abuses can readily occur.

In addition, the Joint Board has recommended the prohibition of service deposits for Lifeline-participating subscribers if they voluntarily elect to receive toll blocking.²²

²¹ Id. at ¶ 387.

²² Id. at ¶ 389.

Ameritech suggests that such an absolute restriction might not be appropriate in all cases -- especially in those jurisdictions that have usage-based local rates. In those cases, some deposit may be appropriate, even if toll blocking is elected by the consumer.

III. THE INTERSTATE SUBSCRIBER LINE AND CARRIER COMMON LINE CHARGES.

The Joint Board concurs in the Commission's recommendation that the collection of Long Term Support ("LTS") through the Carrier Common Line ("CCL") charge is inappropriate.²³ The Joint Board correctly concludes that LTS should be removed from the access charge regime and recovered from the new federal universal service support mechanism. LTS is clearly a subsidy that does not represent the recovery of any costs of the charging carrier. The recovery of those costs via access charges is economically inefficient and not competitively neutral.

However, the Joint Board then retreats from this very principle by recommending that, if carrier contribution to the universal service fund is based upon both inter- and intrastate revenues, then the CCL charge should be reduced by only half of the amount of LTS cost recovery that moves to the universal service fund and the subscriber line charge ("SLC") caps should be reduced by the other half. This would essentially increase the base factor portion ("BFP") overflow recovered in the CCL charge -- that portion of interstate loop costs not recovered from end users via the SLC.

²³ Id. at ¶ 767.

The result is simply that the CCL charge would be increased to fund a lower SLC. This is completely inappropriate.

It is Ameritech's position that all of the non-traffic sensitive loop costs are caused by the provision of local exchange service to the end-user subscriber.²⁴ It is the end user's subscription to local exchange service that causes loop costs regardless of whether any interexchange calls are made. The recovery of those costs from any party other than the end user constitutes a subsidy. While Ameritech does not favor increasing the SLC to recover all interstate loop costs from the end user, neither does it favor increasing the subsidy from access charges in any way. At a time when competition for access services is increasing, the inflation of access rates via subsidies is counterproductive and completely contrary to the spirit and the letter of §254.

The Joint Board correctly recognizes that recovering non-traffic sensitive loop costs currently recovered by the CCL charge on a traffic-sensitive basis is inefficient. Therefore, the Joint Board recommends that the CCL charge be restructured to a flat, per-line charge assessed from ILECs to IXCs.²⁵ However, assessing these charges on a flat, per-line basis is not competitively neutral since the assessment of the subsidy to IXCs constitutes an additional incentive for them to migrate their end user customers to CLECs that do not assess that charge. Rather, the subsidy should be recovered in a competitively neutral manner based on relative retail revenues. This allocator would be fair and would keep the burden roughly where it is today and roughly in the same

²⁴ The Joint Board refused to make any finding on this issue. Recommended Decision at ¶774.

²⁵ Recommended Decision at ¶ 776.

magnitude, but in a manner that would not constitute an uneconomic encouragement for an IXC to configure its networks or market its services in any particular way.

IV. SUPPORT FOR SCHOOLS AND LIBRARIES.

In response to statutory requirements, the Joint Board recommended that all eligible schools and libraries receive discounts of between 20% and 90% -- depending on the relative economic disadvantages of the school and the cost characteristics of the serving area -- on all telecommunications services, Internet access, and internal connections, subject to a \$2.25 billion annual cap (which can be carried forward).²⁶ The list of eligible services, however, is too broad -- both for statutory reasons and from a sustainability standpoint. In addition, certain clarifications of the Board's proposed "lowest corresponding price" ("LCP") and bidding process are necessary for the mechanism to work fairly and achieve its intended results.

A. Services Eligible for Support.

As noted above, the Joint Board recommended that all telecommunications services -- including wireless and emerging new media services -- be eligible for the discount. In addition, the Board included the basic conduit and e-mail portions of Internet access service but not content-based services. Internal connections would include inside wire, routers, hubs, network file servers and wireless local area networks.

While the Joint Board's decision to include all telecommunications services as being eligible for support (in this case, a discount) could appear to be overbroad,

²⁶ Id. at ¶ 440

Ameritech does not have any specific objections as long as the fund is capped at a reasonable level.²⁷

On the other hand, Ameritech must object to the inclusion of Internet access and internal connections as "eligible services." Clearly, these are not telecommunications services as contemplated by § 254(h)(1)(B) and § 254(c). Rather, the statute contemplates that eligibility be conferred only on those telecommunications services provided by telecommunications carriers who have an obligation to contribute to the preservation of universal service.²⁸ The principle of competitive neutrality would be violated if providers who are not required to contribute toward the preservation of universal service were permitted to receive disbursements from the fund. In other words, only telecommunications services provided by carriers are appropriately included in the concept of "universal service."

Nor does the inclusion of the term "information services," in § 252(h)(2)(A) change that fact. The term appears only after the words "access to," indicating that what is meant is not that the information services themselves are included in the concept of universal service but rather "access to" those services -- i.e., the

²⁷ Ameritech understands the Joint Board's desire to afford schools and libraries "the maximum flexibility to purchase whatever package of telecommunications services they believe will meet their telecommunications service needs." (§458.) Much of the mischief that could be caused by an overly expansive definition -- namely the increased societal cost of funding unnecessary services -- is mitigated by the fact that the fund is capped. Nonetheless, an overly expansive definition of eligible services only begs the question of whether limited funds will be able to satisfy the demand. With the fund capped, an expansive definition of eligible services disadvantages smaller, less efficient schools -- or any school with limited resources to be devoted to processing the paperwork necessary for fund support. That is, if an expansive definition of eligible services creates a substantial risk that funds will be exhausted, those schools that are the quickest in processing their claims -- larger, more efficient schools -- will be the ones to benefit.

²⁸ See especially § 254(h)(1)(B).

communications services that connect the educational institution to the information services.

Similarly, internal connections were not intended to be covered because they also do not involve telecommunications services.²⁹ Not only is inside wire not a service, but the other items included in the Joint Board's recommendations -- routers, hubs, network file servers -- are CPE, and the Joint Board has, quite rightly, chosen not to include other types of CPE -- such as personal computers -- as covered items.³⁰

Moreover, these non-telecommunications service items appear to be covered in § 708 of TA96. Internet service in particular appears to be covered under § 708(A)(1)(C). So there is no reason to include them in a § 254 mechanism.

Therefore, the Commission should clarify that only telecommunications services are eligible for support.

B. Discount Methodology.

The Joint Board's recommendations concerning the details of the discount methodology are generally sound. Competitive bidding is required for all services eligible for discounts.³¹ The requests are sent to the Fund Administrator to be posted on a website as if they were requests for proposals ("RFPs"). This process should

²⁹ Representative Jack Fields noted in his speech at last month's NARUC convention in San Francisco, "Of course, inside wiring has not been a regulated telecommunications service for many years, and, in my opinion, cannot lawfully be funded or subsidized by a federal universal service fund."

³⁰ The inclusion of CPE such as file servers will create an uneconomic incentive for consortia to locate shared equipment at the school with the biggest discount rather than at the school that makes the network configuration most efficient. If the school with the biggest discount is a rural one, network costs could be increased as a result -- for no sound economic reason.

³¹ Recommended Decision at ¶ 539. Some accommodation may have to be made, however, for the large numbers of requests that will be made at start-up.

encourage widespread participation and aggregation of demand, thus facilitating economic efficiency and reducing administrative costs.

The fact also that the schools and libraries must pay the undiscounted portion of the price³² is also beneficial since it requires them to “put some money into the game,” thereby discouraging the purchase of unnecessary services. It also encourages their best efforts in soliciting the best discounted price.

The proposal requires that, in the context of competitive bidding, service providers would be required to certify that their bid is no more than the “lowest corresponding price” -- defined as the lowest price charged to similarly situated non-residential customers for similar services.³³ The Commission should clarify that LCP refers only to a price currently offered pursuant to an arrangement that has been entered into within 12 months prior to the RFP. If a service is currently being offered to another customer pursuant to a 10 year contract arrangement which is now in its ninth year, it would be inappropriate to require that the same rate be offered as an LCP. If that were the case, the carrier would be precluded from raising its rates even if its costs had changed. The concept of LCP therefore must include current rates -- but current not in the sense of what is being charged, but in the sense of what is being required of new/recent customers/applications.

The Board’s recommendation properly includes that “the obligation to serve at the lowest corresponding prices apply to all telecommunications carriers in that area.”³⁴

³² Id. at ¶ 535.

³³ Id. at ¶ 540.

This requirement is beneficial in that it will ensure that the school or library has the opportunity to obtain the best possible price and, correspondingly, that the lowest amounts are drawn from the capped fund to support these discounts.³⁵ Moreover, it is completely reasonable and competitively neutral to require competitive providers serving a particular geographic area to submit bids and to provide service at rates comparable to what they are charging to other non-residential customers. With this in mind, the circumstances “in which competition does not exist”³⁶ will not include situations in which the competition simply chooses not to bid, but rather those situations in which there are no competitive providers serving the area.

C. Discount Tracking.

For ease of administration and consistency, the Fund Administrator should gather statistics on all schools from official public sources -- both data on participation in the national school lunch program and data on high cost areas -- and calculate the discount to which each school would be entitled and publish it on the same website on which the schools' RFPs are published. This will minimize total administration costs, facilitate the bid process, and ensure that funds are disbursed consistently -- not only between schools but also from one project to the next for the same school.

³⁴ Id. at ¶ 544.

³⁵ The Commission should not require the school or library to select the lowest LCP since there may be legitimate non-price reasons for the selection of a higher bid. However, the support should be limited to the discount of the lowest LCP.

³⁶ Recommended Decision at ¶ 541.

D. Restrictions on Schools and Libraries.

The Joint Board recommends very appropriate restrictions on the ability of schools and libraries to obtain services at discounted rates. Specifically, the Recommended Decision would preclude an entity not directly eligible for support from obtaining benefits by participating in a consortia with those who are eligible.³⁷ Furthermore, the Joint Board appropriately recommends that resale be absolutely restricted.³⁸ Permitting resale would either permit schools or libraries to make a “profit” on these services or would confer the benefit of the discounts on otherwise ineligible parties. Either result would clearly be contrary to Congress’ intent.

Further, the Joint Board recommends that schools and libraries comply with three *bona fide* request requirements:³⁹

- (1) certification that they will be able to deploy any necessary hardware, software, and wiring, and to undertake the necessary teacher training required to use the services effectively;
- (2) submission of requests for services in writing to all service providers certificated by the state public utilities commission to serve in the area in which the school or library is located as well as to the Fund Administrator or other entity designated by the Commission; and
- (3) submission of a sworn certification that the entity is eligible under § 254(h)(4), that the services requested will be used solely for educational services, that the services will not be resold and, in the case of an aggregate purchase, the identity of all co-purchasers.

³⁷ *Id.* at ¶ 593.

³⁸ *Id.* at ¶ 597.

³⁹ *Id.* at ¶¶ 599-604

These requirements will help to ensure that universal service funds are used efficiently and only for the purposes intended. Moreover, these additional requirements should create no additional burden on the school or library.

The Joint Board recommends that, to deter illegal resale through misallocation abuse in the case of consortia purchase, providers should keep careful records of how the costs of shared facilities have been allocated.⁴⁰ However, Ameritech strongly suggests that the recordkeeping requirement should be imposed on the purchasers as a reasonable condition of obtaining subsidized services. The provider can only record what the customer tells it. Requiring the provider to keep detailed records will accomplish nothing but increase the cost of providing these subsidized services.

E. Funding.

The Joint Board has recommended that the universal service administrator distribute support for schools and libraries from the same source of revenue used to support other universal service purposes under § 254.⁴¹ Ameritech has no objection as long as the proper accounting and targeting of the funds is undertaken. With that in mind, Ameritech also has no objection to the Joint Board's recommendation that telecommunications carriers be given the option of applying the amount of the discount afforded to schools and libraries either as an offset to their universal service contribution obligations or taking reimbursement for that amount from the support mechanism.⁴²

⁴⁰ Id. at ¶596.

⁴¹ Id. at ¶ 611.

⁴² Id. at ¶ 613.